



U.S. Department
of Transportation
**Research and
Special Programs
Administration**

400 Seventh St., S.W.
Washington, D.C. 20590

APR - 8 2003

Dr. -Ing. Frank Cronacher and Mr. Helge Tenzler
WEW Westerwälder Eisenwerk GmbH
Ringstraße 65a
D-57586 Weitefeld
Germany

Ref. No. 02-0161

Dear Dr. Cranacher & Mr. Tenzler:

This is in response to your letter concerning portable tank regulations under the Hazardous Materials Regulations (HMR; 49 CFR Parts 171-180). Specifically, you asked about specifications of IM 101, IM 102, DOT 51 and UN portable tank requirements in regards to the ASME code. In your letter you asked three questions which are paraphrased and answered below:

Question 1: Does a DOT 51 portable tank have to be built according to the "lethal service" condition in the ASME code, even if the commodity in question allows an IM 101 portable tank?

Answer 1: No. It is possible that a material that meets the ASME condition of "lethal service" is allowed to be transported in several different types of specification packagings.

Question 2: Will all substances mentioned under 49 CFR § 178.273(b)(6) be considered "lethal" according to ASME and require 100% X-ray examination or is the lethal service condition only applicable for such tanks if advised by the user or designated agent according to ASME UW-2(a)?

Answer 2: It is possible that some materials listed in § 178.273(b)(6) would be considered "lethal" according to the ASME. The difficulty in matching definitions in the HMR with the ASME definition of "lethal" is due to the ASME using a narrative, broad description for their definition while the HMR specifies criteria the material must meet. In addition, the HMR has a range of severity of hazards. DOT cannot define "lethal" for the ASME. It is the responsibility of the user, or their agent to determine what "lethal" is under ASME. However, for purposes of compliance with the HMR, at a minimum, hazardous materials in Divisions 6.1, hazard zone A and B and Division 2.3 would require use of "lethal" service portable tanks. As previously stated, the user, or their agent could also specify additional hazardous materials in other classes or divisions as "lethal."



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Question 3: Can the approval agency request a statement concerning "lethal service" or can such an agency classify a commodity as lethal on its own?

Answer 3: As stated in the previous answer, it is the responsibility of the user, or their agent, to determine if a "lethal" service packaging is necessary.

I hope this satisfies your request.

Sincerely,

A handwritten signature in cursive script, appearing to read "Delmer F. Billings".

Delmer F. Billings
Chief, Standards Development
Office of Hazardous Materials Standards



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RSPA Office of Hazardous Materials Standards (DHM-10)
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26 February 2003

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Interpretation of CFR 49, chapter 1, § 178.273 (b)(6)(iv) and § 178.274 (b)(1), column 2,
lines 11 to 18

Interpretation on ASME "lethal service" - inquiry dated on 22 May 2002

Dear Mr. Billings,

referring to our inquiry dated on May 22, 2002 we are still awaiting an official response.

Up to now we received an e-mail message of Mr Michael Johnson dated on 02 December 2002. This message was an "unofficial" review however very helpful for us.
In January 2003 we have been informed that Mr Johnson is not working for DHM-11 any more and that you are the person in charge. We have tried to contact you by phone several times (14, 16, 21 January 2003; 20 February 2003) unsuccessfully. Last time your assistant announced a calling back which failed to come. The situation is very disappointing for us.

We ask for your fast reply.

Best regards,

WEW WESTERWÄLDER EISENWERK GmbH

Ro
Susanne Romanus

Helge Tenzler
Helge Tenzler

*Dear Mr. Billings,
we ask for answer
K.R. Helge Tenzler*

*Thank you
14 March 2003*

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